
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Hilo Tower, LLC)	File No. EB-FIELDWR-14-00015925
Antenna Structure Registrant)	
ASR # 1011944)	
)	
Hilo, Hawaii)	NOV No. V201532860002
)	

NOTICE OF VIOLATION

Released: December 4, 2014

By the Resident Agent, Honolulu Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules(Rules),¹ to Hilo Tower, LLC, registrant of antenna structure #1011944 in Hilo, Hawaii. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On May 7, 2014, agents of the Enforcement Bureau's Honolulu Office inspected antenna structure #1011944 located at the northeast corner of Kahaopea St and Auwae Rd, in Hilo, Hawaii, approximately 1.6 miles from Hilo International Airport, and observed the following violation:

- a. 47 C.F.R. § 17.50: "Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility."³ At the time of inspection, the paint on this structure was observed to be peeling and faded well beyond the point of providing good visibility.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ The Commission recently amended Section 17.50 of the Rules. *See In the Matter of 2004 and 2006 Biennial Regulatory Review – Streamlining and Other Revisions of Parts 1 and 17 of the Commission's Rules Governing Construction, Marking and Lighting of Antenna Structures*, Report and Order, 29 FCC Rcd 9787 (2014). The rule cited to in this Order, however, was the rule in effect at the time of the violations.

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3. Pursuant to Section 403 of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Hilo Tower, LLC must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

4. In accordance with Section 1.16 of the Rules, we direct Hilo Tower, LLC to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Hilo Tower, LLC with personal knowledge of the representations provided in the response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Honolulu Office
POB 971030
Waipahu, Hawaii 96797-1030

6. This Notice shall be sent to Hilo Tower, LLC at its address of record.

⁴ 47 U.S.C. § 403.

⁵ 47 C.F.R. § 1.89(c).

⁶ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁷ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Ryan Hagihara
Resident Agent
Honolulu Office
Western Region
Enforcement Bureau

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).